

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MARKESE CLARK,

Plaintiff,

v.

JAMES SHERMAN, et al.,

Defendants.

Civil Action No. 08-95 Erie

MEMORANDUM ORDER

This civil rights action was received by the Clerk of Court on April 8, 2008, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 23], filed on December 18, 2008, recommended that Defendants' motion to dismiss or in the alternative for summary judgment [Doc. No. 13] be granted and that Defendants' renewed motion to dismiss or in the alternative for summary judgment [Doc. No. 20] be granted. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendants. No objections were filed. After de novo review of the motion and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 8th day of January, 2009;

IT IS HEREBY ORDERED that the Defendants' motion to dismiss or in the alternative for summary judgment [Doc. No. 13] is GRANTED and Defendants' renewed motion to dismiss or in the alternative for summary judgment [Doc. No. 20] is GRANTED.

The Report and Recommendation [Doc. No. 23] of Magistrate Judge Baxter, filed on December 18, 2008, is adopted as the opinion of the Court.

The Clerk of Courts is directed to close this case.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge